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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 09/996,450 | 11/29/2001 | Jean Marie Field | | 2444 |

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WILLIAM COLLARD
COLLARD & ROE, P.C.
1077 NORTHERN BOULEVARD
ROSLYN, NY 11576

EXAMINER

MISKA, VIT W

ART UNIT PAPER NUMBER

2841

DATE MAILED: 08/08/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Applicati n No.

09/996,450

Applicant(s)

FIELD ET AL.

Examiner

Vit W. Miska

Art Unit

2841

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 June 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2-5,7-9 and 25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 2-5,7-9 and 25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claims 2, 5, 8, 9 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over the new patent cited to Bruce et al in view of Freeman et al.
2. With respect to claims 25 and 8, Bruce et al disclose a wristwatch free of protruding element and external stems, as shown in the drawings of the patent, with a band attached to a watch by means of a flush joint (Figs, 2 and 3), the band being without abrupt changes and having even continuous surfaces. The reference, being a design patent, does not have a description of the details of the watch and band construction.
Freeman et al discloses a watch/band structure 10, 12 comprised of a flexible material, battery 14, pressure sensitive device 18 located below indents (concave dome switches described at col. 4, line 18).

3. One of ordinary skill in the art having both references would be taught that the band in Bruce et al may be made of flexible material, as shown in Freeman et al, for facilitating attachment to the wrist. Further, pressure sensitive devices or switches for actuating the watch may be provided in Bruce et al shown at 18 of Freeman et al as an obvious means for allowing setting and actuating the watch in a manner that allows the band/watch structure in Bruce et al to retain its smooth shape.

4. With respect to claim 2, it is well known to provide access means for the battery in a timepiece. It would therefore be obvious for one skilled in the art to provide the same in Bruce et al and follow the design of the watch.

5. With regard to claim 5, it is noted that a variety of watches are available as water resistant. It would be obvious for one skilled in the art to design the timepiece of Bruce et al in the same manner. Further, ornamentation as claimed in claim 9 is also a conventional feature in timepieces and may be provided in Bruce et al to provide the desired aesthetic effects.

6. Claims 4 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bruce et al and Freeman et al as applied to claim 25 above, and further in view of Neher. The latter reference discloses a bayonet type clasp means 17 provided for a watch band 3 which is snag free and smooth when closed. One skilled in the art would

thus consider this manner of attaching the wristband of Bruce et al as one of several conventional ways for providing a smooth clasp for the device of the reference to maintain the design of the timepiece.

7. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bruce et al and Freeman et al as applied to claim 25 above, and further in view of Schickedanz. The Schickedanz patent teaches the use of a flexible and stretchable wristband having watch components (see claim 4 of the patent). One skilled in the art having both references would have a suggestion of making the wristband/watch of Bruce et al of stretchable material as a means for convenient adapting of the band to the wrist of the wearer.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vit W. Miska whose telephone number is 703-308-3096. The examiner can normally be reached on M-F 9-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Martin can be reached on 703-308-3121. The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-7722 for regular communications and 703-308-7724 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-4900.



Vit Miska
Primary Examiner

VM
August 2, 2003